

REMARKS

Favorable reconsideration of this application is respectfully requested.

Claims 5, 7, 8, 13, and 15-20 are pending in this application. Claims 6 and 14 are canceled by the present response without prejudice. Claims 5-7 and 13-15 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. patent 6,791,607 to Bilhan et al. (herein “Bilhan ‘607”). Claims 8 and 16-20 were rejected under 35 U.S.C. § 103(a) as unpatentable over Bilhan ‘607 in view of U.S. patent 5,659,355 to Barron et al. (herein “Barron”).

Initially, applicants note each of independent claims 5 and 13 is amended by the present response to incorporate limitations from respective dependent claims 6 and 14. Thus, the presently submitted amendments to claims 5 and 13 do no raise any issues that would preclude entry of the present amendment.

Addressing now the above-noted rejections, those rejections are traversed by the present response.

Independent claim 5 now recites that the black reference level for a respective line is an average of pixel values in a main scan direction, the moving average being obtained from moving-averaging, in a sub-scan direction, the black reference values. Applicants respectfully submit the applied art to Bilhan ‘607 does not disclose or suggest taking a moving average in a ***sub-scanning direction.***

Bilhan ‘607 discloses the use of a moving average at column 4, line 67, and also notes a “number of lines to be averaged” at column 5, line 49. However, at no point does Bilhan ‘607 indicate taking a moving average in a sub-scanning direction.

With respect to the above-noted feature, the outstanding Office Action states “the number of lines to be averaged is inherently performed in sub-scan direction” in Bilhan ‘607.<sup>1</sup> That statement for the outstanding rejection is not at all understood as there is clearly

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<sup>1</sup> Office Action of August 26, 2005, page 4, lines 17-18.

no requirement to take a moving average in a sub-scanning direction in Bilhan ‘607. It is unclear on what basis of the outstanding rejection can indicate such as inherently performed in Bilhan ‘607. That is, it is unclear on what basis the outstanding rejection would indicate that a moving average **must** be performed in the sub-scan direction in Bilhan ‘607, versus performing a different type of averaging in the sub-scan direction or performing no averaging in the sub-scan direction. Applicants respectfully submit it is clearly not the case that in every device such as in Bilhan ‘607 a moving average is performed in a sub-scan direction. Therefore, it clearly **cannot be inherent** in Bilhan ‘607 to perform such a moving average in a sub-scan direction. Absent such a requirement, a holding of inherency is clearly improper.

In view of these foregoing comments, applicants respectfully submit the outstanding office action does not properly consider the feature of utilizing a moving-average in a sub-scan direction.

Further, a rejection is proper only if the prior art references teach or suggest **all** of the claim limitations, see M.P.E.P. § 2143. It is clearly the case that in the outstanding rejection the primary cited reference to Bilhan ‘607 does not disclose the above-noted feature, and the outstanding Office Action has not pointed to any disclosure in Bilhan that actually teaches the above-noted feature. Also, as discussed above, the basis for the rejection on inherency is clearly improper.

The outstanding rejection also appears to clearly be an improper hindsight reconstruction of applicants’ invention based only on applicants’ own disclosure, and not on any teachings in the prior art. That is, Bilhan ‘607 does not disclose the above-noted claimed feature and it is only applicants of the present invention that recognized benefits achieved in the claimed invention by utilizing a moving-average in a sub-scan direction.

Moreover, applicants note the entire basis for the rejection indicating that moving-averaging is performed in a sub-scanning direction inherently in Bilhan ‘607 does not appear

to be based on any proper basis for a rejection. As noted in M.P.E.P. § 2144, a rejection can be based on common knowledge in the art, implicit disclosure, or reliance on scientific theory. The basis for the outstanding rejection does not appear to cite any of such rationales. In that respect applicants also note there is no implicit disclosure in Bilhan '607, no scientific theory, or no noted well known prior art to meet the above-noted limitation of utilizing a moving-average in a sub-scan direction.

If the outstanding rejection is based on Official Notice, then that position is hereby traversed and prior art is required to cite for the noted proposition.

Applicants respectfully submit, however, that the above-noted features distinguish over the applied art.

Thereby, the claims are currently written are believed to clearly distinguish over Bilhan '607.

Moreover, no teachings in Barron were cited with respect to the above-noted features or are believed to overcome the above-noted deficiencies of Bilhan '607.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.

Respectfully submitted,

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